

Maine Revised Statutes
Title 18-A: PROBATE CODE
Article :

§5-301. TESTAMENTARY APPOINTMENT OF GUARDIAN FOR INCAPACITATED PERSON

(a). The parent of an incapacitated person may by will appoint a guardian of the incapacitated person. A testamentary appointment by a parent becomes effective when, after having given 7 days prior written notice of his intention to do so to the incapacitated person and to the person having his care or to his nearest adult relative, the guardian files acceptance of appointment in the court in which the will is formally or informally probated, if prior thereto both parents are dead or the surviving parent is judged incapacitated, and if the incapacitated person is not under the care of his spouse. If both parents are dead, an effective appointment by the parent who died later has priority unless it is terminated by the denial of probate in formal proceedings.

[1979, c. 540, §1 (NEW) .]

(b). The spouse of a married incapacitated person may by will appoint a guardian of the incapacitated person. The appointment becomes effective when, after having given 7 days prior written notice of his intention to do so to the incapacitated person and to the person having his care or to his nearest adult relative, the guardian files acceptance of appointment in the court in which the will is informally or formally probated. An effective appointment by a spouse has priority over an appointment by a parent unless it is terminated by the denial of probate in formal proceedings.

[1979, c. 540, §1 (NEW) .]

(c). This State shall recognize a testamentary appointment effected by filing acceptance under a will probated at the testator's domicile in another state.

[1979, c. 540, §1 (NEW) .]

(d). On the filing with the court in which the will was probated of written objection to the appointment by the person for whom a testamentary appointment of guardian has been made, the appointment is terminated. An objection does not prevent appointment by the court in a proper proceeding of the testamentary nominee or any other suitable person upon an adjudication of incapacity in proceedings under the succeeding sections of this Part.

[1979, c. 540, §1 (NEW) .]

SECTION HISTORY

1979, c. 540, §1 (NEW) .

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